

**Applicant:** Bernalillo County  
Zoning, Building, Planning &  
Environmental Health Department  
111 Union Station St. SE  
Albuquerque, NM 87111

**Property Owner:** Gonzales Rentals  
Partnership  
5925 Edith Blvd. NE  
Albuquerque, NM 87107

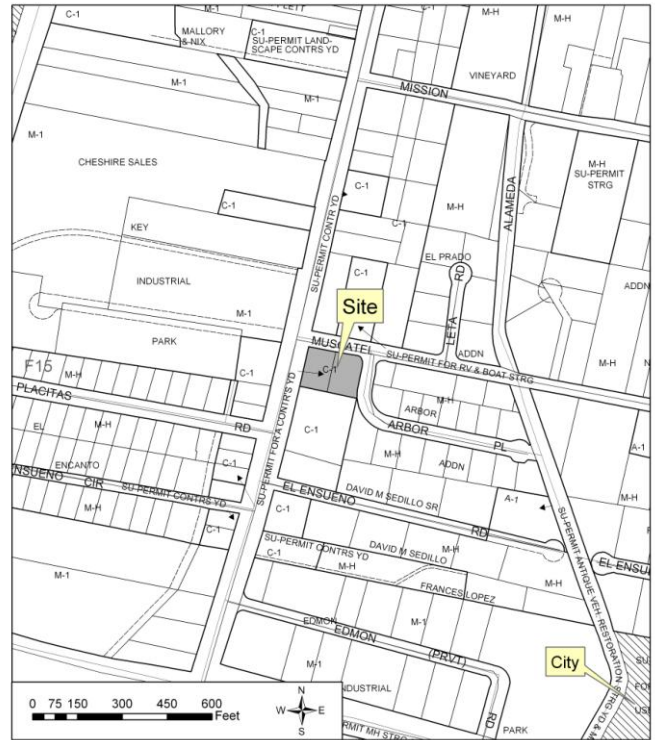
**Location:** 5802 Edith Blvd. NE

**Property Size:** .55 acres (approximately)

**Existing SUP:** Special Use Permit for  
Contractor's Yard

**Zoning:** C-1

**Recommendation:** Cancellation



**Summary:** The Zoning, Building, Planning & Environmental Health Department is proposing cancellation of an existing Special Use Permit for a Contractor's Yard on a .55 acre property located on the southeast corner of Muscatel Ave. and Edith Blvd. (CSU-60034). Despite contact from the Zoning Enforcement Office, the parking, paving, and landscaping on the site still do not comply with the approved site plan, and the current use on the site—magazine distributor—is not permitted under the Special Use Permit for a Contractor's Yard. Although the property owner has made some progress in addressing the initial concerns of staff, the violations of the Special Use Permit have yet to be fully addressed.

**Staff Contact:** Catherine VerEecke, Program Planner

**Attachments:**

1. Notice of Special Use Permit (March 1, 2007)
2. Notices of violation (2007)
3. Notice of intent to cancel SUP (3/1/10)
4. Property owner's letter in response (5/26/10)
5. Zone Atlas page, land use map.
6. Approved site plan (5/31/07) (Commissioners only)

CSU-60034 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for a Contractors Yard on Tracts A & B, Vineyard Addition # 1, located at 5802 Edith Blvd. NE, zoned C-1, and containing approximately 0.55 acres. (F-15)

## AREA CHARACTERISTICS AND ZONING HISTORY

### Surrounding Zoning & Land Uses

	<b>Zoning</b>	<b>Land use</b>
<b>Site</b>	C-1/Special Use Permit Contractor's Yard	Warehouse Single Family Residential
<b>North</b>	C-1/Special Use Permit for RV and boat storage	RV and Boat Storage, Single Family Residential
<b>South</b>	C-1	Office
<b>East</b>	M-H	Single Family Residential
<b>West</b>	M-1 &C-1	Industrial Park, Retail

## **BACKGROUND**

### **Special Use Permit History & Overview**

On March 1, 2007, the Board of County Commissioners authorized a Special Use Permit for a Contractor's Yard on a .55 acre property located on the southeast corner of Edith Blvd. and Muscatel Ave. to the north of Montano Rd. The property consists of two parcels with C-1 zoning and includes two warehouse-type buildings, a residence (for a caretaker), and a large parking area.

In 1995, the property received a Special Use Permit for Auto Sales (CZ-95-13). After the auto sales use was discontinued, a contractor's yard was established on it, which required a new Special Use Permit. The Special Use Permit was granted in 2007 with 14 conditions of approval for a period of 10 years (Attachment 1—Notice of Decision) which included adding landscaping, parking, and signage meeting the standards detailed in the Zoning Ordinance to be incorporated in the final site plan (Attachment 5--Approved site plan). The conditions and site plan took into account the proximity of residential uses to the site—to the northeast and east along Muscatel Ave. and Arbor Pl.

Since the time of the approval of the Special Use Permit request in 2007, the property has not fully complied with the approved site plan and conditions of approval. Beginning in May 2007, letters were sent from the Zoning Enforcement Office indicating that the property was not in compliance with the approved site plan (Attachment 2—Notices of Violation). The violations noted in the letter included the failure to provide the following: paving and striping of the parking area (including handicapped parking), solid fencing (mesh) along the property lines that are next to residential uses (e.g., Muscatel Rd. and Arbor Pl.), and closing off a gate along Muscatel Ave. Although fencing issues appear to have been addressed, no obvious actions were taken by the property owner to address the other violations. On March 1, 2010, the Zoning Administrator sent the property owner a letter of intent to cancel the Special Use Permit (Attachment 3—Letter of Intent).

Most recently, a follow-up inspection by staff revealed that the property does not comply with the approved site plan and several of the conditions of the Special Use Permit. Parking spaces in the parking area are not located correctly on the site (per the approved site plan) and have not been fully paved according to the standards of Section 21 (solid surfacing, striping, signage) (Condition 1). In addition, staff recently noted that although there is some landscaping on the site, the landscaping along the east and north sides of the property is incomplete (Condition 7), and evidence of connection to sewer service has not been provided (Condition 10). It also appears that the contractor's yard use has been discontinued and that a newspaper distributor is now operating out of one of the buildings, which is a different use from that approved for the property.

Although some efforts were being made by the property owner to address some of these issues, at the time of the completion of this report, the property still was not in full compliance with the site plan. The property owner has reviewed the outstanding conditions with staff and has also discussed the allowed use (contractor's yard) on the property. However, the owner has responded to the Zoning Administrator's letter of intent to cancel the Special Use Permit with a letter stating that the property is in compliance and that the new use should be allowed

because the Special Use Permit, in his understanding, is for a contractor's yard or a less intense use (Attachment 4).

### **Subject Site & Surrounding Properties**

Although the property is located nearby an established residential subdivision (Vineyard Addition), the general vicinity of the site near Edith Blvd. has a mixture of uses. Generally, in this area on the east side of Edith Blvd., the first two lots from Edith Blvd. have C-1 zoning, although many appear not to be used for retail and have either heavy commercial uses or residential uses, including a number of rental properties. The property to the south of the site has C-1 zoning with an office (MVD) and emissions testing on it. The properties to the east and northeast of the site have residential uses.

One property to the north is vacant but has had different businesses on it over the last 10 years. Another property to the north has C-1 zoning with a Special Use Permit for RV and Boat Storage (CSU-50012).

## **APPLICABLE REGULATIONS & POLICIES**

### **Comprehensive Zoning Ordinance of Bernalillo County**

#### **Section 18. Special Use Permit Regulations.**

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the

Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

## **ANALYSIS**

This request seeks to cancel a Special Use Permit for a Contractor's Yard on a .55 acre property located on the southeast corner of Muscatel Ave. and Edith Blvd. The property, which has an underlying zoning of C-1, is located close to residential properties to the north and east, so that conditions approved by the Board of County Commissioners in 2007 took into account the need to minimize the impact of the contractor's yard use on the neighborhood. Since the Special Use Permit was approved, there have been a number of issues with the property's meeting conditions of approval and compliance with the approved site plan, particularly with paving the parking areas, and more recently with maintaining required landscaping on the property. In addition, the contractor's yard that was approved and located on the site has been replaced with another use that falls within a different category of the Zoning Ordinance and would require a new Special Use Permit, following Section 18.3.c of the Zoning Ordinance. Because of the continued non-compliance of the property with the approved site plan, staff has brought this case forward for cancellation of the Special Use Permit.

As Special Use Permits authorize land uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is required. The subject property still has a number of violations of the Special Use Permit on the property which must be addressed to bring the property into compliance including the following:

- landscaping (north and east property lines)
- parking (location and paving)
- evidence of connection to sewer service
- approved use (contractor's yard) not established on site

**Proposed Findings for Cancellation**

1. This is a request for cancellation of a Special Use Permit for a Contractors Yard on Tracts A & B, Vineyard Addition # 1, located at 5802 Edith Blvd. NE, zoned C-1, and containing approximately 0.55 acres.
2. This matter is a result of continued violations of the Special Use Permit (CSU-60034) and the corresponding site development plan approved for the permit, dated 5//31/07.
3. The property has failed to comply with the approved site development plan in that the paving and location of the parking spaces do not comply with the site plan and with the requirements for parking in Section 21 of the Zoning Ordinance (paving, handicap space). The property also lacks sufficient landscaping along the north and east property lines.
4. The property has failed to comply with the Special Use Permit for a Contractor's Yard in that the contractor's yard use has been replaced with a magazine distributor, which falls within a different land use category in the zoning Ordinance and would require a new Special Use Permit to continue to operate on the property.
5. The Bernalillo County Zoning Administrator notified the property owner of noncompliance with the provisions of the Special Use Permit on 3/1/10, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
6. This decision removes the Special Use Permit (CSU-60034) from the property, and reverts the zoning on the site back to the underlying zoning designation of C-1 (Neighborhood Commercial Zone).

**RECOMMENDATION:**

Cancellation of CSU-60034.

Catherine VerEecke  
Program Planner